

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BESSEMER SYSTEM FEDERAL CREDIT UNION, on behalf of itself and members,)
Plaintiff,)
vs.)
FISERV SOLUTIONS, LLC and FISERV,)
INC.,)
Defendants.)
) 2:19-cv-00624-RJC

ORDER OF COURT

AND NOW, this 14th day of July, 2020, upon consideration of the Motion to Strike Plaintiff's Jury Demand and Prayer for Punitive Damages (ECF No. 50) and the Motion to Dismiss Second Amended Complaint (ECF No. 52) filed by Defendants Fiserv Solutions, LLC, f/k/a Fiserv Solutions, Inc. ("Fiserv Solutions") and Fiserv, Inc. ("Fiserv, Inc.") (collectively, "Fiserv"), and for the reasons discussed in this Court's Opinion of the same date, it is hereby ORDERED that:

- 1) Fiserv's Motion to Dismiss is granted in part and denied in part with respect to Plaintiff's claim for breach of contract (Count I). Fiserv's Motion to Dismiss is granted as to Plaintiff's claim for breach of the purported Replevin Action settlement agreement, and that claim is dismissed with prejudice. Fiserv's Motion to Dismiss is denied as to Plaintiff's claim for breach of the Master Agreement.
 - 2) Fiserv's Motion to Dismiss is granted with respect to Plaintiff's claim for negligence (Count II). Plaintiff's negligence claim is dismissed with prejudice.

- 3) Fiserv's Motion to Dismiss is granted as to Plaintiff's claims for unfair and deceptive trade acts and practices (Count III). Plaintiff's unfair and deceptive trade acts and practices claims are dismissed with prejudice.
- 4) Fiserv's Motion to Dismiss is granted in part and denied in part as to Plaintiff's claim for fraud/fraudulent inducement (Count IV). Plaintiff's claim for fraud is dismissed with prejudice in part as set forth in the Court's Opinion of the same date.
- 5) Fiserv's Motion to Dismiss is granted with respect to Plaintiff's claim for constructive fraud (Count V). Plaintiff's constructive fraud claim is dismissed with prejudice.
- 6) Fiserv's Motion to Dismiss is granted with respect to Plaintiff's claim for negligent misrepresentation (Count VI). Plaintiff's negligent misrepresentation claim is dismissed with prejudice.
- 7) Fiserv's Motion to Dismiss is granted as to Plaintiff's claim for conversion (Count VII). Plaintiff's conversion claim is dismissed with prejudice.
- 8) Fiserv's Motion to Dismiss is denied as to Plaintiff's claim for bailment (Count VIII).
- 9) Fiserv's Motion to Dismiss is denied with respect to Plaintiff's claim for misappropriation of trade secrets under the Pennsylvania Uniform Trade Secrets Act (Count IX).
- 10) Fiserv's Motion to Dismiss is denied as to Plaintiff's claim for violation of the federal Defend Trade Secrets Act (Count X).
- 11) Fiserv's Motion to Dismiss is granted with respect to Plaintiff's claim for unjust enrichment (Count XI). Plaintiff's unjust enrichment claim is dismissed with prejudice.
- 12) Fiserv's Motion to Dismiss is granted as to Plaintiff's claim for promissory estoppel (Count XII). Plaintiff's promissory estoppel claim is dismissed with prejudice.

13) Fiserv's Motion to Dismiss is denied with respect to Plaintiff's claim for declaratory relief (Count XIII).

14) Fiserv's Motion to Strike is denied.

Defendants shall file an answer to the remaining claims set forth in Plaintiff's Second Amended Complaint within twenty-one (21) days of this Order.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

cc/ecf: All counsel of record